

3. When an interest is transferred, Federal Rule of Civil Procedure 25(c) provides that “the action may be continued by ... the original party unless the court, on motion, orders the transferee to be substituted in the action ...” Fed. R. Civ. P. 25(c).

4. “Whether to grant a motion for substitution of parties is committed to the sound discretion of the district court.” *Burns v. Grupo Mexico S.A. De C.V.*, No. 07 CIV. 3496 (WHP), 2007 WL 4046762, at *2 (S.D.N.Y. Nov. 16, 2007).

5. As Ballinger transferred its right, claim and interest in this insurance coverage litigation, Pitt should be substituted for Ballinger as the plaintiff in this action as it is now the true party-in-interest and the case caption should be amended to reflect Pitt as the named plaintiff. *Cf. Greystone Bank v. Peralta*, No. 10 CIV 0695 BMC, 2010 WL 3767619, at *2 (E.D.N.Y. Sept. 20, 2010) (finding Rule 25 party substitution proper where documentary evidence demonstrated transfer of interest in action and underlying agreements).

6. No Defendant will suffer any prejudice in this action as a result of this substitution of the correct parties.

WHEREFORE, The University of Pittsburgh respectfully requests that The University of Pittsburgh be substituted as plaintiff and the caption be amended to reflect this change.

Dated: March 10, 2016

/s/ Paul E. Breene
Paul E. Breene
Reed Smith LLP
599 Lexington Avenue, 22nd Floor
New York, NY 10022
Telephone: 212-205-6023
pbreene@reedsmith.com

Douglas E. Cameron
Caitlin R. Garber
Reed Smith LLP
225 Fifth Avenue
Pittsburgh, PA 15222
Telephone: 412-288-3131
dcameron@reedsmith.com
cgarber@reedsmith.com

Counsel for The University of Pittsburgh

CERTIFICATE OF SERVICE

I hereby certify that The University of Pittsburgh's Motion to Substitute the University of Pittsburgh for The Ballinger Company as a Party Pursuant to Fed. R. Civ. P. 25 has been filed through the ECF system, that the notice of filing will be sent electronically to the registered participants as identified on the Notice of Electronic Filing, and that they will additionally be sent via Electronic Mail to the following parties:

J. Gregory Lahr, Esq.
Sedgwick LLP
225 Liberty Street, 28th Floor
New York, NY 10281-1008
gregory.lahr@sedgwicklaw.com

Counsel for Lexington Insurance Company

Dan D. Kohane, Esq.
Hurwitz & Fine, P.C.
1300 Liberty Building
Buffalo, NY 14202
DDK@hurwitzfine.com

Counsel for AXIS Insurance Company

Dated: March 10, 2016

/s/ Paul E. Breene
Paul E. Breene